



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,537	05/23/2001	Robert Carl Barrett	AM9-97-133-US2	4656

30355 7590 04/01/2004

DANIEL E. JOHNSON
IBM CORPORATION, ALMADEN RESEARCH CENTER
INTELLECTUAL PROPERTY LAW DEPT. C4TA/J2B
650 HARRY ROAD
SAN JOSE, CA 95120-6099

EXAMINER

CORRIELUS, JEAN M

ART UNIT

PAPER NUMBER

2172

DATE MAILED: 04/01/2004

16

Please find below and/or attached an Office communication concerning this application or proceeding.

h

Office Action Summary

Application No.

09/864,537

Applicant(s)

BARRETT ET AL.

Examiner

Jean M Corrielus

Art Unit

2172

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 51-60 and 69-83 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 51-60 and 69-83 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

Art Unit: 2172:

DETAILED ACTION

This office action is in response to the request for reconsideration filed on January 26, 2004, in which claims 51-60 and 69-83 are presented for further examination.

Response to Arguments

Applicant's arguments filed January 26, 2004, with respect to the double patenting and the 102 rejections have been fully considered. The arguments with respect to the rejection under 102 are persuasive and the rejection has, therefore been withdrawn. However, the arguments with respect to double patenting rejection have been considered but they are not persuasive for the reasons below.

Remark

(A). Applicants asserted that the pending application currently under examination is a divisional application of the originally filed 08/979,064 patent application, and properly claims priority to this '064 application, therefore, filing a terminal disclaimer is not appropriate. The examiner disagrees with the precedent assertion. Applicants should duly noted that the current claims of the pending were not withdrawn as a result of a restriction requirement of the 08/979,064 patent application. Best of all, the claims of the pending application are substantially equivalent with the patent claims, except, the pending claims are broader, which in fact it is not interfere with the functionality of the steps previously

Art Unit: 2172:

claimed and would perform the same function. Therefore, the aforementioned assertion is moot.

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 51-60 and 69-83 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of the U.S. Patent No. 6,490,584. Although the conflicting claims are not identical, they are not patentably distinct

Art Unit: 2172:

from each other because of the following reasons: Claim 1 of the instant application substantially recites the limitations of claim 1 of the cited U.S. patent. The claim merely omits certain the underlined limitations and replaces the bolded limitations as shown in comparison table 1 below.

Application Claim 51	US Patent Claim 1
51. A method for pushing information to a client in an information processing system, the method comprising the step of: · Providing a platform implementing the information processing system and a system client for practicing the method; gathering facts concerning user activity; forming the gathered facts into facts nets; storing the facts nets within the platform-implemented system; identifying fact nets defining evolving probable user interest; and pushing selected facts from the identified facts nets to the system client.	1. A method for pushing information to a client in an information processing system, the method comprising the step of: Providing a platform implementing the information processing system and a system client for practicing the method; gathering facts concerning user activity; forming the gathered facts into facts nets; storing the fact nets within the platform-implemented system; identifying the facts nets defining evolving probable user interest; pushing selected facts from the identified facts nets to the system client; and <u>defining an extended environment with which the user does not interact, and wherein the gathering step includes the steps of gathering facts corresponding to events in user activity and in the extended environment.</u>

Table 1

It would have been obvious to one of ordinary skill in the art of data processing at the time the invention was made to modify the cited steps as indicated claim 1 of the US Patent since the omission and addition of the cited limitations would have not changed the process according to which the method of pushing information to a client in an information processing system. Therefore, the ordinary skilled artisan would have been also motivated to modify claim 1 of the cited US patent by deleting the use of defining an extended environment with which the user does not interact, and wherein the gathering step includes the steps of gathering facts corresponding to events in user activity

Art Unit: 2172:

and in the extended environment. The cited omitting elements would not interfere with the functionality of the steps previously claimed and would perform the same function. In re Karlson, 136 USPQ 184 (CCPA 1963).

The dependent claims 52-60 of the instant application are rejected for fully incorporating the errors of their respective base claims by dependency.

Application Claim 69	US Patent claim 14
69. A system for pushing information to a client in an information processing system, the system comprising the step of: means for gathering facts concerning user activity and for forming the gathered facts into facts nets; means for identifying fact nets defining evolving probable user interests; means for pushing selected facts from the identified fact nets to a system client; and single platform means implementing the system and the client.	14.A system for pushing information to a client in an information processing system, the system comprising the step of: means for gathering facts concerning user activity and for forming the gathered facts into facts nets; means for identifying fact nets defining evolving probable user interests; means for pushing selected facts from the identified fact nets to a system client; single platform means implementing the system and the client; <u>and means for defining a fact data structure, for defining a linkage between fact data structures, for defining a fact net as a data structure incorporating at least one fact data structure, and means for linking multiple instances of fact data structures.</u>

Table 2

Art Unit: 2172

It would have been obvious to one of ordinary skill in the art of data processing at the time the invention was made to modify the cited steps as indicated claim 14 of the US Patent since the omission and addition of the cited limitations would have not changed the process according to which the method of pushing information to a client in an information processing system. Therefore, the ordinary skilled artisan would have been also motivated to modify claim 14 of the cited US patent by deleting the means for defining a fact data structure, for defining a linkage between fact data structures, for defining a fact net as a data structure incorporating at least one fact data structure, and means for linking multiple instances of fact data structures. The cited substitute elements would not interfere with the functionality of the steps previously claimed and would perform the same function. In re Karlson, 136 USPQ 184 (CCPA 1963).

The dependent claims 70-78 are rejected for fully incorporating the errors of their respective base claims by dependency.

Application Claim 79	US Patent claim 11
<p>79. A system for monitoring events in an environment, for making inferences about the monitored events, and for reporting selected inferences to a client, the system comprising the step of:</p> <p>at least one observer agent for monitoring a selected event of an environment, and for creating a primitive fact which incorporates a status of the monitored event;</p> <p>a dynamic user model for storing created facts, the stored facts being accessible by the agents; and</p> <p>at least one reporter agent for examining created facts, for defining and identifying reportable facts, and for delivering a copy of the reportable facts to a receiving client.</p>	<p>11. A system for monitoring events in an environment, for making inferences about the monitored events, and for reporting selected inferences to a client, the system comprising the step of:</p> <p>at least one observer agent for monitoring a selected event of an environment, and for creating a primitive fact which incorporates a status of the monitored event;</p> <p>a dynamic user model for storing created facts, the stored facts being accessible by the agents; and</p> <p>at least one reporter agent for examining created facts, for defining and identifying reportable facts, and for delivering a copy of the reportable facts to a receiving client; <u>the agents, the dynamic user model, and the</u></p>

client.	<u>client being implemented within a single platform; and at least one fact deriving agent for examining all existing facts, for creating new facts from one or more existing facts, and for linking each new facts to a parent facts of the new fact, forming fact nets of linked facts, and further including all fact nets being stored in the dynamic user model.</u>
---------	---

Table 3

It would have been obvious to one of ordinary skill in the art of data processing at the time the invention was made to modify the cited steps as indicated claim 14 of the US Patent since the omission and addition of the cited limitations would have not changed the process according to which the system for monitoring events in an environment, for making inferences about the monitored events, and for reporting selected inference to a client. Therefore, the ordinary skilled artisan would have been also motivated to modify claim 14 of the cited US patent by deleting the use wherein the agents, the dynamic user model, and the client being implemented within a single platform; and at least one fact deriving agent for examining all existing facts, for creating new facts from one or more existing facts, and for linking each new facts to a parent facts of the new fact, forming fact nets of linked facts, and further including all fact nets being stored in the dynamic user model. The cited substitute elements would not interfere with the functionality of the steps previously claimed and would perform the same function. In re Karlson, 136 USPQ 184 (CCPA 1963).

The dependent claims 80-83 are rejected for fully incorporating the errors of their respective base claims by dependency.

Conclusion

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean M. Corrielus whose telephone number is (703)-306-3035. The examiner can normally be reached on Monday - Friday (1:00PM - 10:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E Breene can be reached on (703) 305-9790. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2172

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jean M. Corrielus

Patent Examiner

March 31, 2004